

ESTTA Tracking number: **ESTTA707741**

Filing date: **11/10/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Threshold Enterprises, Ltd.
Granted to Date of previous extension	12/09/2015
Address	23 Janis Way Scotts Valley, CA 95066 UNITED STATES

Correspondence information	Rod S. Berman Attorney Jeffer Mangels Butler & Mitchell LLP 1900 Avenue of the Stars, 7th Floor LOS ANGELES, CA 90067 UNITED STATES trademarkdocket@jmbm.com Phone:310-203-8080
----------------------------	---

Applicant Information

Application No	86639563	Publication date	08/11/2015
Opposition Filing Date	11/10/2015	Opposition Period Ends	12/09/2015
Applicant	Glanbia Nutritionals (Ireland) Limited Glanbia House Kilkenny, IRELAND		

Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: dietary and nutritional supplements
Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: sports training drinks containing dietary and nutritional supplements, namely, ready to drink beverages; energy drinks;sports drinks


Grounds for Opposition


Deceptiveness	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1909705	Application Date	05/12/1994
-----------------------	---------	------------------	------------

Registration Date	08/08/1995	Foreign Priority Date	NONE
Word Mark	SOURCE NATURALS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1982/01/01 First Use In Commerce: 1982/01/01 vitamins, herbs and nutritional supplements		

U.S. Registration No.	3930397	Application Date	03/03/2009
Registration Date	03/15/2011	Foreign Priority Date	NONE
Word Mark	SOURCE NATURALS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2002/03/06 First Use In Commerce: 2002/03/06 cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin		

U.S. Registration No.	4837774	Application Date	07/10/2014
Registration Date	10/20/2015	Foreign Priority Date	NONE
Word Mark	SOURCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2015/08/21 First Use In Commerce: 2015/08/28 Dietary supplements; herbal supplements; nutritional supplements; food supplements; vitamins		

	Class 035. First use: First Use: 2015/08/21 First Use In Commerce: 2015/08/28 Wholesale distributorship and mail order catalog services in the field of dietary, herbal, nutritional, and food supplements and vitamins
--	--

Related Proceedings	91224750
---------------------	----------

Attachments	77682619#TMSN.png(bytes) 86333714#TMSN.png(bytes) Notice of Opposition - Glanbia - TRUSOURCE mark.pdf(120108 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ ROD S. BERMAN
Name	Rod S. Berman
Date	11/10/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 86/639,563


Mark: 

Published in the Official Gazette on August 11, 2015

Threshold Enterprises Ltd.,)	
)	
Opposer,)	
)	Opposition No. _____
vs.)	
)	
Glanbia Nutritionals (Ireland) Limited,)	
)	
Applicant.)	
_____)	

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

U.S. Trademark Application Serial No. Serial No. 86/639,563 for the mark 

("Applicant's Mark"), in the name of Glanbia Nutritionals (Ireland) Limited, an Ireland limited liability partnership ("Applicant"), was published for opposition in the Official Gazette on August 11, 2015. Threshold Enterprises Ltd. ("Threshold Enterprises"), a corporation of Delaware with its principal place of business at 23 Janis Way, Scotts Valley, California 95066, believes it will be damaged by the registration of Applicant's Mark in International Classes 05 and 32, and hereby opposes the same, in accordance with Section 13 of the Trademark (Lanham) Act of 1946, 15 U.S.C. § 1063.

Threshold Enterprises has obtained the necessary extensions of time in which to file this Notice of Opposition.

As grounds for the opposition, Threshold Enterprises alleges as follows:

1. On information and belief, Applicant is an Ireland limited liability partnership with a principal place of business at Glanbia House, Kilkenny, Ireland.

2. Applicant filed an application for  on or about May 22, 2015, seeking registration for Applicant's Goods.

3. Threshold Enterprises is the owner of incontestable U.S. Trademark Registration No. 1,909,705 for SOURCE NATURALS for "vitamins, herbs and nutritional supplements." SOURCE NATURALS was originally registered by Source Natural, Inc., a wholly owned subsidiary of Threshold Enterprises, and was later assigned to Threshold Enterprises. This registration is valid, subsisting, uncanceled and conclusive evidence of Threshold Enterprises' exclusive right to use SOURCE NATURALS in commerce or in connection with the goods specified in the registration.

4. Since at least thirty years prior to Applicant's filing date for Applicant's Mark, Threshold Enterprises adopted and has continuously used its SOURCE NATURALS mark and its trade name SOURCE NATURALS, INC. in connection with vitamins, herbs and nutritional supplements. SOURCE NATURALS is a prominent national brand, with products available nationwide in all major markets.

5. Threshold Enterprises is the owner of U.S. Trademark Registration No. 3,930,397 for SOURCE NATURALS for "cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin." This registration is valid, subsisting, uncanceled and conclusive evidence of Threshold Enterprises'

exclusive right to use SOURCE NATURALS in commerce or in connection with the goods specified in the registration.

6. Since at least ten years prior to Applicant's filing date for Applicant's Mark, Threshold Enterprises adopted and has continuously used its SOURCE NATURALS mark in connection with cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin. SOURCE NATURALS is a prominent national brand, with products available nationwide in all major markets.

7. Threshold Enterprises is the owner of U.S. Trademark Registration No. 4,837,774 for SOURCE for "Dietary supplements; herbal supplements; nutritional supplements; food supplements; vitamins" in Class 05 and "Wholesale distributorship and mail order catalog services in the field of dietary, herbal, nutritional, and food supplements and vitamins" in Class 35. This registration is valid, subsisting, uncanceled and conclusive evidence of Threshold Enterprises' exclusive right to use SOURCE in commerce or in connection with the goods and services specified in the registration.

8. SOURCE is a prominent national brand, with products available nationwide in all major markets.

9. Threshold Enterprises owns common law rights in its SOURCE and SOURCE NATURALS marks and SOURCE NATURALS, INC. trade name.

10. Applicant's Mark so resemble Threshold Enterprises' SOURCE and SOURCE NATURALS marks and SOURCE NATURALS, INC. trade name that it is likely to cause confusion, or to cause mistake or deceive within the meaning of Section 2(d) of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1052(d).

11. Applicant's Mark is deceptive under Section 2(a) of the Trademark (Lanham) Act

of 1946, 15 U.S.C. §1052(a) by implying that Threshold Enterprises's SOURCE and SOURCE NATURALS products are not the "true" SOURCE products, and that Threshold Enterprises use of SOURCE is false, when that is not the case.

12. Applicant's Mark is deceptively misdescriptive under Section 2(e) of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1052(e) by implying that the ingredients of the goods associated with Applicant's Mark come from the original source of such ingredients which, on information and belief, is false.

13. By reasons of the foregoing, Threshold Enterprises will be damaged by the registration of Applicant's Mark.

WHEREFORE, Threshold Enterprises prays that this Opposition be sustained and that application Ser. No. 86/639,563 be refused.

Respectfully submitted,

Dated: November 10, 2015

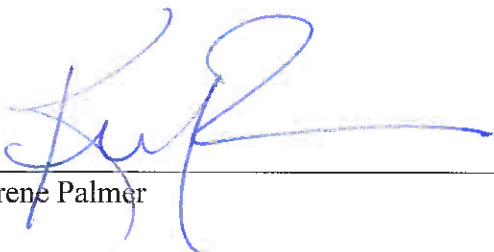
/s/ ROD S. BERMAN

Rod S. Berman
JEFFER, MANGELS, BUTLER & MITCHELL LLP
1900 Avenue of the Stars, Seventh Floor
Los Angeles, CA 90067
(310) 203-8080
E-mail: trademarkdocket@jmbm.com
Attorneys for Opposer Threshold Enterprises Ltd.

PROOF OF SERVICE

It is hereby certified that on **November 10, 2015**, a copy of the foregoing NOTICE OF OPPOSITION has been sent by first class mail, postage prepaid to Applicant at the correspondence address of record in the Patent and Trademark Office:

Angelo J. Bufalino
Vedder Price P.C.
222 N. LaSalle St., Suite 2400
Chicago, IL 60601



Kerene Palmer